

TEWKSBURY BOARD OF HEALTH  
Minutes  
June 19, 2014

**Call of Meeting To Order**

**MOTION** - Ms. Kinnon made a motion to call the meeting to order at 7:10 PM. The motion was seconded by Mr. French and unanimously voted 4-0.

The meeting was held at the Tewksbury Senior Center. Present at the meeting were, Chairperson Kathleen Brothers, Vice Chairman Raymond Barry, Phillip French, Christine Kinnon, Health Director Lou-Ann Clement and Recording Secretary Dawn Cathcart. Charles Roux was not present.

**Approval of Minutes – May 8, 2014 and May 15, 2014**

**May 8, 2014**

Ms. Kinnon stated that she has the following corrections:

- Page 4, 4<sup>th</sup> paragraph – add a comma after “approval” and remove “is”.
- Page 4, 5<sup>th</sup> paragraph – remove “of”.
- Page 6, 1<sup>st</sup> paragraph, 10<sup>th</sup> line – add “will” before “create”
- Page 7, 4<sup>th</sup> paragraph – “Attorney Gollub stated that their website it says they take everything.” – delete “it” from the sentence.
- Page 10, Exhibit 6, Mr. Oliveira was spelled incorrectly.

Ms. Brothers stated that she has one correction:

- Page 4, “The minutes of this meeting is recorded as tonight’s Exhibit #2” – “is” should be “are”.

**May 15, 2014**

Ms. Brothers stated that there was one clarification. On page 3, 3<sup>rd</sup> paragraph, “Attorney Gollub apologized for the site visit but he has a busy schedule and Mr. Oliveira wanted him there.” should be “Attorney Gollub apologized for not allowing for ...” Attorney Gollub stated that for clarification he apologized for not being available for a site visit. The sentence should be “Attorney Gollub apologized for not being available for the site visit ...”

**MOTION** - Mr. French made a motion to approve the Board of Health minutes of May 8, 2014 and May 15, 2014 as amended tonight. The motion was seconded by Ms. Kinnon and unanimously voted 4-0.

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**Deliberations for the Appeal of Prohibition, Regulations for Keeping of Animals and 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation, Variance for the Keeping of Animals, Site Assignment – M.G.L. c. 111 § 151 Slaughter House, and Site Assignment – M.G.L. c. 111 § 143 Trade of Employment of Noisome attended with Noisome Trade and Injurious Odors (Piggery) Located at 199 Marston Street, Tewksbury, MA, Owner: Dinis Oliveira**

**MOTION** - Mr. Barry made a motion to open the deliberations for 199 Marston Street. The motion was seconded by Ms. Kinnon and unanimously voted 4-0.

Attorney Peter Gollub, Dinis Oliveira and one unidentified women appeared for the deliberations.

Ms. Clement stated that with the assistance of Mr. Barry three draft decisions are ready to review tonight. There were only two decisions in the Board's package and the third was just finished late today so if there is time, we can review that one.

Ms. Clement stated that the first decision will be the slaughter house. Ms. Clement stated that she met with Mr. Oliveira on site today and she performed an inspection. The site looked much better. The trailers have been destroyed and are no longer habitable. These have been moved to another portion of the property. The number of animals onsite today were, 14 cows, 1 goat, 2 horses, 20 pigs, 2 sheep and about 50 chickens. There was a screen cover on the dumpster and the slaughter house was not open. The manure pile has also been relocated. Ms. Clement stated that Attorney Gollub has given her a new plot plan with the proposed location of the manure pile but there needs to be dimensions and setbacks drawn on it. Ms. Clement stated that Mr. Oliveira has made the pasture smaller and brought in the pasture for the cows to be closer to the barn and a fence has been added. There is approximately 1 ½ acres now for the cows and the rest of the pasture has grown in. The area is clean and looks nice. Ms. Clement stated that Attorney Gollub has given a package tonight with some supplemental information including several that deal with the slaughter house.

Attorney Gollub stated that in the supplemental package there are six items numbered 45 – 52 of these six items, Items #45, #46 and #47 are related to the slaughter house. Item #45 is slaughter house guidelines which include State regulations that Mr. Oliveira will have to comply with. Item #46 is a spreadsheet showing estimates of operation liquid production with slaughtering. These are estimates but he feels they are relatively accurate. The maximum estimated gallons of liquid per week would be 450 gallons. The tank they are looking to install is approximately 4,000 gallons. Attorney Gollub stated that Bakers Commodities has a gallon check on their pump trucks. Attorney Gollub stated that Item #47 includes communications from Bakers Commodities and JC Rendering as well as JC Rendering's license information. They are licensed with the New York State Department of Agriculture and Markets. He has provided two letters stating what they will take. Typically these companies do not sign contracts, they use agreements.

Mr. French stated that Bakers Commodities have said that they will not take brain or spinal cords from cattle, and no raw material from lamb, sheep or goats so will he use two handlers. Attorney Gollub

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replied yes or they will limit their slaughter to pig and cattle until they come up with another solution. Mr. French stated that JC Rendering will take everything. Attorney Gollub replied that was correct.

Ms. Kinnon asked if JC Rendering will take blood also. Attorney Gollub replied yes. Ms. Kinnon asked how often they come to Massachusetts. Attorney Gollub replied he is not sure. They have large regions to cover including Massachusetts.

Mr. Barry stated that if you compare the number of animals shown in Exhibit #46 compared to the number of animals requested in Exhibit #49, the numbers in Exhibit #46 are much lower. Attorney Gollub stated that number of animals were chosen based on past numbers on an average week. The goats are pretty much slaughtered as they come in but the other animals may stay on site for a bit longer.

Mr. French asked if the water used to clean up the slaughtering is also taken by JC Renderings. Attorney Gollub replied yes, but we can't cross contaminant if Baker's pump the tank. JC Rendering may not be able to send a pump truck up to Massachusetts so Bakers Commodities is essential for pumping out the underground tank. Mr. French stated that it was stated that the largest part of the slaughter house is goats so if there is no one to take the raw material how will this help. Attorney Gollub stated that the Board could consider this a staggered restart with only cattle and pigs first.

Mr. Barry asked if the blood goes into the tank or into barrels. Attorney Gollub replied that the blood goes into the tank. Mr. Barry asked what would be the total amount of liquid going into the tank. Attorney Gollub replied the estimate is about 450 gallons per week if all animals requested are being slaughtered. Mr. Barry asked when the tank is pumped is it also cleaned. Ms. Clement replied she does not believe so. It would be similar to when a septic tank is pumped. The tank is emptied but not cleaned.

Ms. Clement stated that the applicant has requested a large amount of chickens but that is not factored into Exhibit #46 with the liquid production estimate. Attorney Gollub stated that is a maximum number was inserted for anticipation of the future. He obviously does not have anywhere close to that amount of chickens and there is no immediate plans to slaughter chickens. Ms. Clement stated that she would be concerned about cross contamination of chicken with beef and pork. Attorney Gollub stated that they have adequate cleaning procedures to prevent cross contamination.

Ms. Brothers asked if the number of animals reflect the holy days. Attorney Gollub replied yes. They have requested that the number of sheep be increased to 80 during one holy week a year.

Mr. Barry asked if there was an alarm in the tank. Attorney Gollub replied yes, on an alarm is shown on the engineered drawings.

Ms. Clement asked if the process of trapping, neutering and vaccinating the cats has started as referenced on Exhibit #51. Attorney Gollub replied yes, the Billerica Cat Care Coalition has started the process. Ms. Clement stated that Exhibit #51 is the vaccination reports for the two horses.

Mr. Barry asked if the cats are on site for a reason. Attorney Gollub replied that they do help with rodent control but it is more the case of them adopting Mr. Oliveira.

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Ms. Clement stated that a plot plan was submitted but it needs setbacks. The piggery regulations require that the pig manure pile be 500' from any residence. It would be grandfathered if the manure pile stayed where it was but since it is being moved it needs to meet the required setbacks. The cow manure pile needs to be at least 200' from any residence so the plot plan needs the distances shown from the piles to the residence. Attorney Gollub asked if this needs to be done by a surveyor. Ms. Clement replied no, it does not need to be a surveyor. Ms. Brothers stated that they would take a five minute recess so the plot plan could be fixed.

Ms. Clement passed out copies of the plot plan that was just updated by Attorney Gollub. Ms. Clement stated that from the site visit today, the location that Attorney Gollub marked as the location of the manure pile seems accurate and she feels comfortable that this plot plan would satisfy the regulations.

Ms. Brothers asked what the setback is from the wetlands. Ms. Clement stated that the Conservation Agent went out to the site and looked at the triangle area and he was ok with the location as long as it was 100' away from wetlands. Ms. Clement stated that in her opinion this location meets the criteria.

Ms. Kinnon asked if there was a compost pile. Ms. Clement replied no, there was no compost pile. Ms. Clement stated that the pig manure pile has been moved and asked if the intention was to only have one manure pile. Attorney Gollub that was correct. Ms. Kinnon stated that there will be no more compost pile. Attorney Gollub replied that was correct.

**MGL c. 111 § 151 Slaughter House**

Ms. Clement stated that a draft Notice of Decision has been created by her and assisted by Mr. Barry. This decision should capture everything the Board has required. The only outstanding item for discussion is the definition of a custom slaughter house.

Mr. Barry stated that there is no clear definition of a custom slaughter house in the Massachusetts. The criterion of a custom slaughter house is meat that is not sold to the general public. A customer either brings their own animal for slaughter or picks an animal onsite where it is slaughtered by the employees and then they take it away. Attorney Gollub agreed. The animals are either selected onsite, hunted or they have already purchased the animal from somewhere else. Attorney Gollub stated that you should adopt a definition that already exists and not create your own.

Mr. Barry presented the draft Notice of Decision and stated that if there are any comments please stop him to discuss.

- Section III, Finding of Facts, #2 – Attorney Gollub believes that the total acres is 9.7 not 9.1.
- Section III, Finding of Facts, #6 – Attorney Gollub requested that “whole blood” and “from the slaughtering of animals” be removed from this statement. Ms. Brothers stated that she disagreed and stated these should remain. Ms. Clement stated that on the record, it was stated that this manhole only services the slaughter house and there is no other way that the blood could have gotten there. Mr. French stated that the fact is there was blood and the only place it could come

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from is the slaughter house. Mr. French stated that the wording should remain. A poll of the Board was taken and #6 remains as is.

- Section IV, Decision – Mr. Barry stated that the following statement will be added to the end of this section, *“Therefore, the Tewksbury Board of Health based on evidence presented at the public hearing, including but not limited to the facts presented above, voted to ---, by a vote X-X --- the Applicant’s operate a custom slaughter house with the following conditions:”*. A poll of the Board was taken and this statement will be added.
- Section IV, Decision, #4 – Attorney Gollub requested that during the winter and summer months, he would not want to make people wait outside. He requested that they be able to create a “lobby” area for the general public to wait in. Mr. Barry stated that he wants to keep cross contamination to a minimum. He added that he hasn’t seen the slaughter house so he is not sure of the setup and if there is an area that could be sectioned off. Ms. Clement stated that there is an area that could be roped off but she is still concerned with contamination on people’s shoes. Mr. Barry stated that in the past the general public has been part of the slaughter for religious reasons and asked if that would continue. Attorney Gollub replied no, he spoke to Islamic religious leaders and the practitioner does not have to participate in the slaughtering of the animal as long as a three line prayer is said prior to the slaughter. Mr. Barry stated that the applicant should work with Ms. Clement to come up with the restricted area. Mr. French stated that there should be at least a half-wall not just ropes. Ms. Brothers asked if any minors would be involved with the slaughtering. Attorney Gollub replied he doesn’t believe so. Attorney Gollub stated that there are floor mats that have disinfectant on them and people walk over it with the shoes to clean them. They will look into this. Attorney Gollub asked if it would be agreeable to have a moveable or hinged barrier so it can be moved to get an animal in and for emergency egress.
- Section IV, Decision, #6 – Attorney Gollub stated that they are using the form that the USDA wants. Ms. Brothers stated that we discussed this at length about tracking the animal in case of a food borne sickness. Mr. Barry stated that this is a public health issue and there are only a few extra columns to fill out.
- Section IV, Decision, #7 – Attorney Gollub asked if this could be in the form of flyer that could be copied and handed out. Ms. Clement replied yes, and she will work with them on this item. The problem is it may have to be translated into other languages.
- Section IV, Decision, #9 – Attorney Gollub stated that he requested that “contract” be changed to “agreement”. A poll of the Board was taken and approved this change.
- Section IV, Decision, #14 – Attorney Gollub stated that they cannot entirely control traffic but they will make an effort to limit traffic during overnight hours.
- Section IV, Decision, #15 – Attorney Gollub stated that he agrees with this statement but he is not sure it belongs in the Decision.

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- Section IV, Decision – Mr. Barry stated that the following statement will be added to the end of this section, *“Therefore, the Tewksbury Board of Health based on evidence presented at the public hearing, including but not limited to the facts presented above, voted to ---, by a vote X-X --- the Applicant’s operate a custom slaughter house with the following conditions:”*. A poll of the Board was taken and this statement will be added.

Mr. Barry stated that the following is the definition we have chosen and this will be added to the Notice of Decision. “The Tewksbury Board of Health defines a Custom Slaughter House as a facility that offers services for people who want any animal slaughtered or processed for their own personal use. The meat is cut, packaged, and labeled “not for sale”. These meats are returned to the owner of the animal (who may have bought it from the farmer just before slaughter) and cannot be sold.” Ms. Kinnon stated that “Slaughter house” should be changed to “Custom Slaughter House” throughout the document. The Board was polled and agreed to this change.

**MOTION** - Mr. Barry made a motion to approve the Notice of Decision for the Custom Slaughter house at 199 Marston Street as presented with the approved changes discussed tonight. The motion was seconded by Mr. French and unanimously voted 4-0.

Ms. Clement stated that once the decision has been updated, it will be sent to Town Counsel for review. Ms. Clement added that the applicant is going before the Zoning Board of Appeals on June 26, 2014 and she would like to read the following letter into the record:

*Dear Mr. Oliveira:*

*On June 19, 2014, the Tewksbury Board of Health (TBOH) approved your Custom Slaughter House. However, the formal decision will require Town Counsel’s review. Attached you will find a copy of the current draft, once the Town Counsel has reviewed this draft the signed copy will be issued and forwarded to you.*

*This approval granted by the TBOH allowing for the operation of a custom slaughter house does not preclude the applicant’s responsibility from obtaining all necessary permits, inspections, and abiding by all applicable Local, State and Federal policies, rules, regulations, and laws.*

*Additionally, this approval does not take effect until the formal decision is issued by the TBOH’s office.*

*Sincerely,*

*Kathleen Brothers,*

*Chairman*

Mr. Barry asked that the definition of a custom slaughter house be added to the letter.

**MOTION** - Mr. Barry made a motion to approve the letter from Ms. Clement to Mr. Oliveira with the addition of the definition for a custom slaughter house. The motion was seconded by Ms. Kinnon and unanimously voted 4-0.

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**105 CMR 410.000 Minimum Standards of Fitness for Human Habitation**

Ms. Clement stated that as of today the trailers have been demolished and cannot be used for human habitation. The scrapped trailers have been moved to a different portion of the property. The Notice of Decision is written as the trailers are still there so it needs to be changed to indicate they have been removed.

Ms. Kinnon asked if the Notice of Decision is still needed. Ms. Clement replied yes. She will rewrite the decision to indicate the trailers are no longer habitable. Mr. Barry asked what date the trailers were demolished. Ms. Clement replied that she would put today's date.

**MOTION** - Mr. Barry made a motion to change the Notice of Decision for 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation to simply state this matter was resolved by Mr. Oliveira and the trailers are no longer used for habitation and as of June 19, 2014 they are now considered scrap. The motion was seconded by Mr. French and unanimously voted 4-0.

**Keeping of Animals**

Ms. Clement handed out the draft Notice of Decision for keeping of animals. Mr. Barry stated that Section I and II are the same as the other decision. Mr. Barry asked the numbers in this draft decision are different than what was presented in Exhibit 49 tonight and asked which numbers were being requested tonight. Attorney Gollub replied that the numbers presented in Exhibit 49 with the slaughter house. These would include: fifty (50) swine, thirty-five (35) cattle, sixty (60) goats, forty (40) sheep with allowance to go to eighty (80) one week a year for the holy week, two (2) ponies/equine and three hundred and fifty (350) chicken/geese.

Mr. Barry read the draft Notice of Decision and stated that if there are any comments please stop him to discuss.

- Section III, Finding of Facts, #2 – Attorney Gollub believes that the total acres is 9.7 not 9.1.
- Section IV, Decision, #6 – Attorney Gollub asked that “contract” be changed to “agreement”. A poll of the Board was taken and approved this change.

There were a few typographical errors in Section IV. Item #1 - change “healthy” to “health”, Item #2 - change “maintain” to “maintained”, Item #8 - delete “for the storage and removal animal”, Item #9 - change “All animals and” to “All animals are”.

Mr. French stated that he is agreeable to all the numbers of animals except the chickens. The original number was thirty and now they are asking for three hundred and fifty. That seems like a very large number. He is agreeable to increasing the swine from thirty-five to fifty. Attorney Gollub stated that perhaps a number in the middle such as two hundred would be more acceptable.

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Ms. Kinnon stated that she would like to keep the swine at thirty-five and agrees that three hundred and fifty chickens are too many.

Mr. Barry asked if there was housing available for three hundred and fifty chickens. Attorney Gollub replied no, not right now.

Ms. Clement suggested that our Animal Inspector, Ms. Thomas go out on site and determine how many swine and chickens would be acceptable. Mr. Barry stated that the applicant was supposed to work with NRCS and UMass Amherst to see what the land could handle and get the correct numbers.

Mr. French stated that he was agreeable to fifty swine because it would allow Mr. Oliveira to get additional animals at auction so they can be slaughtered. Attorney Gollub stated that they would be agreeable to have the number of chickens at fifty right now and have Ms. Thomas confirm the larger amount.

Ms. Clement stated that she will contact Ms. Thomas to look at the numbers for swine and chicken.

**MOTION** - Mr. French made a motion to approve the Notice of Decision for the keeping of animals with the following number of animals: thirty-five (35) cattle, sixty (60) goats, forty (40) sheep with allowance to go to eighty (80) for one week a year for the holy week, and two (2) ponies/equine. There will be no more than fifty (50) swine and no more than fifty (50) chicken/geese until the correct number is determined by the Animal Inspector. The motion was seconded by Ms. Kinnon and unanimously voted 4-0.

**Site Assignment - Piggery**

Ms. Clement stated that she hopes to have the draft decision for the piggery and the Site Assignment by the July 17<sup>th</sup> meeting.

Attorney Gollub thanked the Board for all their efforts to resolve these issues.

**MOTION** - Mr. French made a motion to close the meeting and adjourn at 9:30 PM. The motion was seconded by Ms. Kinnon and unanimously voted 4-0.

**Approved On: July 17, 2014**

**List of documents for 6/19/14 Agenda  
Documents are located in the Board of Health's Office**

**Minutes:**

Exhibit #1      May 8, 2014

Exhibit #2      May 15, 2014

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**Public Hearing:**

- |             |  |
|-------------|--|
| Exhibit #3  | Notice of Decision draft for Slaughter House   |
| Exhibit #4  | Notice of Decision draft for 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation |
| Exhibit # 5 | Letter from Town Counsel dated June 18, 2014   |
| Exhibit #6  | Package from Peter Gollub, ESQ.  |
| Exhibit # 7 | Plot Plan documenting manure pile  |
| Exhibit # 8 | Draft of Custom Slaughter House definition   |
| Exhibit #9  | Notice of Decision draft for eth Keeping of Animals  |